THE "OPEN" SHOP

BY ELBRIDGE H. NEAL

So little comes from the ranks of labor and so much from the employing side in the way of writing on its " closed shop " question, which is frequently described as one of the most vital industrial problems of the day, that the general public is likely to form an opinion that labor is here seeking more than it should. It may be premised that under present industrial conditions we have a constant warfare where the betterment of one class is only achieved by coercion. There has been a general advance in the ranks of organized labor in which, with the menace of " strike," it has secured better wages and shorter hours, checked, however, here and there, by employers' " lockouts " and " blacklists." But in this forward movement it has come to many citadels which cannot be carried by the assault of " strike." These are the " open " shops. Parleying with those within has failed. New weapons must be brought into play and a siege begun.

But why should union labor interfere with these citadels? The workmen within may be satisfied with the conditions under which they labor. This may be because they do not know that better terms can be had. Fear may keep them in their place, because the expression of any unionizing sentiments, especially in small towns, may lead to discrimination against them or their discharge by the baron of the citadel. The rule is almost invariable that the hours and wages in the union or " closed shops," as the employers prefer to term them, are better for the men than in the non-union or " open shops." Herein lies the most potent reason which union labor has for attacking these citadels.

In the competition of trade the existence of the many union shops is threatened by the cheaper-made products of the non-union shops. They are a continuing menace to the

union movement. The positions of union men in union mills require outside support from the union ranks as against the underselling of the non-union shops. Labor has two methods which it employs in these sieges. Where the products of the non-union shop are such that other mechanics have to work upon or install them, such as mill work, union labor may refuse to do so; where the products come from the non-union shops ready for the market, union men may refuse to buy them and ask their friends not to buy them in the cause of labor. Yes, not only in the cause of labor, but many times in the cause of humanity. The conditions in many non-union mills are such that women and children are employed for long hours on dangerous occupations. For instance, in a litigation in which the labor organization to which the writer belongs is involved, the proprietors of two wood-working mills of the West testified that they each had four women working at circular saws, more commonly known as buzz-saws. It has been estimated that one-quarter of the men who work at these saws lose one or more fingers, and in St. Louis it is said that about half of these men in the mills have been so maimed. The Labor law of New York prohibits the employment of women about dangerous machinery, and especially refers to circular saws. Yet, except for the activities of union labor, these products of the women of the West would sell freely in a State where women could not work upon them. There are many instances of the extreme youth of boys and girls employed at other functions in these two mills.

We hear much of the right of individual contract, of the sovereign right of every man to work for whom he pleases and for what he pleases, but behind that beautiful sentiment lies the sovereign right to grind up the bodies and souls of girls and boys into American dollars with which anti-union combinations can smash organized labor, which stands for the sovereign right of every man to support his own family and not be obliged to put his boy and his girl in these great wood-working factories to help him eke out a bare existence.

In this economic warfare we would naturally think that capital could protect itself. Employers are combined in almost every trade and from city organizations to national. Several years ago the Master Carpenters of the city of New York combined and " locked out " the union carpenters and

kept them out for nine months, with disastrous effect to both sides. Trade conditions in turn adjust themselves, and the results of industrial fights give each side a new understanding of the power of the other. They come to terms which show concessions on each side. To seek to overreach the other is tantamount to another declaration of war. In the conflict among the great business interests there is seldom resort to the courts. They keep fighting until one after another falls. No concern in the fierce competition halloos, "I'm hurt!" and flies to the courts for injunction relief.

Not so in labor disputes, especially those arising over the "open shop." Here many of the employers want the aid of the courts in the warfare. Many of them are combined in associations which carry on litigation for their members. The assessments of each are small, and expensive litigations are in this way carried on against labor where the plaintiffs only pay nominal sums of money. This sort of combination, though in violation of the penal law of this State, has not so far been condemned by any court decision, while labor combinations in many of their endeavors have been. It is because the "lockout" and the "blacklist" of the employer cannot be employed in the attack on the "open shop" that he sets up the cry of injury and flies to the courts. The storm-center of these litigations over the "open shop" is now the United Brotherhood of Carpenters and Joiners of America, the largest of labor organizations. It is defending at the present time two of these injunction actions in the Federal courts and three in the Supreme courts of New York.

Fortified by the principles which early grew up in the law to protect the rights of individuals, the employer feels that the position in which he is necessarily placed by industrial competition commends itself to his conscience. The law, as it has been developing for ages, has been throwing out its tentacles around property to protect it. Individual liberty is concerned in perhaps not one in two hundred cases before the courts. The individual has had less difficulty to protect himself in his person than to keep other hands off his property.

An early principle of the law which is covered by countless moss-grown decisions is that the good-will of a man's business must not be interfered with. As corollaries to this we have the principles just as often declared that a work-

man's right to labor where he pleases must be respected, as likewise the right of the employer to choose his own workmen. Nor must there be any abridgment of the right of employer and employee to make what contract they may agree to with regard to compensation.

With the expansion of the world of trade and industry, men began to move in masses as they do to-day. From passing on individual rights the courts have now to consider and declare the rights of masses of men surging together, one mass seeking to overreach or overpower the other in this industrial warfare, not of individuals, as before, but of bodies of men in the struggle for existence. The individual, with his fundamental rights still existent but practically useless in a large part of the field of warfare, is overwhelmed. Everywhere there are combinations. With individual employers at the start we find now immense corporations employing many hundreds, even thousands, of men. Further, we have combination of all the combinations of employers in allied trades, as in the case of the Employers' Association of New York, which is a combination of the different associations of employers in the forty or so branches of the building trades. We need hardly speak of the combinations more distinctively known as trusts, which control the prices of almost everything necessary to existence. In this mass of combinations we find labor in the different trades seeking to obtain, in combination, a better plane of living than the members could individually attain in competition with one another. The competitive value of almost every marked article has been swept away, and those who have eliminated it hark back to the old principles of individual right in the employment of men and want to pay them wages and work them hours fixed on a competitive basis.

It would seem that the courts should keep their hands out of this economic warfare, except where malice or violence is shown in labor's acts. During nine months of lockout experienced a few years since, when carpenters were doing their best to hold their organization intact, meeting in a great hall day after day to discuss the situation and hear reports from the committee in charge, then going quietly to their homes—during all that time not one act of violence was charged up to the carpenters' union of New York City. The main weapon of the workman is the strike, and its efficacy is wholly dependent on the number of men who will

cease working at the same time. The main weapon of the employer is the lockout, and its success depends on the number of employers who will unite in locking out until they starve out the members of a particular labor organization.

It took years to get a declaration from the courts that union men may refuse to work with non-union men, unless they are actuated by malice and do not use violence. In many jurisdictions there are decisions to the contrary. The courts of the State of New York seem to be more advanced in their treatment of the rights of men in masses. The statutes of many States have removed the competitive rule from all public works by providing for eight hours a day and payment of the prevailing rate of wages.

In the " closed shop " issue, so far as the United Brotherhood of Carpenters and Joiners of America is concerned, we have the question, not of the right of union men to decline to work with a non-union man, but the right of union men to refuse to work on non-union-made material. This question is being thrashed out in five litigations previously referred to. Four of these litigations are brought by that other combination of employers which derives its revenues from contributions of non-union employers all over the country to carry on litigations against labor unions. The plaintiffs are the owners of non-union mills, mostly of the West.

The 200,000 members of the Brotherhood of Carpenters in the United States and Canada are divided into 40,000 men who work in shops and mills fashioning wood products to be used in buildings, and the other members, who are engaged in the construction of buildings, as part of their work install the products of the mills. The non-union mills exceed in number the union mills of this country, and there are many thousand non-union carpenters engaged in the construction of buildings, but there is no way to ascertain their number. The siege of the union carpenters against these non-union mill citadels to prevent them from overcoming and putting out of work their 40,000 fellow-members in mills is wholly conducted by the refusal of the 160,000 " outside " carpenters to install in buildings mill products not made by their " inside " members in mills. In these appeals to the courts the non-union mill-owners do not flatly say that they want mandatory injunctions to compel union carpenters to work on their non-union mill products. That would raise the issue of involuntary servitude

prohibited by the Federal Constitution. The theory of the cases is that enough union carpenters will be found who will ignore their own rules and work on non-union mill products if their officers do not interfere, so injunction is asked against the officers of the organization to prevent them from ordering strikes. It is a subtle way to seek to disorganize a union by giving court succor to the rebels in an organization.

In view of the fact that many of the articles regarding the " open shop " are really directed against the carpenters, and the importance of the litigations in which they are involved, it may be well to give some details about this great organization, particularly the New York District Council, whose officers are defendants in the present litigation.

The Brotherhood of Carpenters of New York City have for many years been carefully considering their laws, first trying one method after another that they thought would benefit the greatest number, rescinding one law, adopting another, or amending another. They now believe they have a law pertaining to apprentices that is as near the ideal as a body of approximately 20,000 local men of all nationalities and creeds is capable of devising. One apprentice to eight mechanics in mills, or one to ten mechanics, as obtains in building construction, has proven satisfactory to all of our employers except that rare individual who desires to employ none but apprentices or to employ ten apprentices to one mechanic.

A man's eligibility to membership depends entirely upon whether he can qualify as a skilled mechanic. If in the opinion of the Examining Board an applicant has demonstrated his ability to command the prevailing rate of wages, his admission to membership is certain even though the local union to which he applied rejects him. This often occurs, as, for instance, a machine-hand local would not desire an " outside man " to affiliate with them, or a German local might refuse to admit a Scandinavian. This, however, does not signify that the applicant, being once rejected, is denied admission to any local. Many locals make no distinction, and any skilled man, regardless of his race, creed, or color, is admitted. (There is a local of colored men in the Greater New York District, and one or two other locals have two or more colored members.)

The organization gives every encouragement to boys desiring to learn the trade and are consistent in safeguarding

their welfare, and one boy to ten men is not a restrictive measure when the great size of the organization is considered and the uncertainty of employment. There are at present three thousand idle carpenters in New York City, many of them young, able-bodied men and skilled mechanics. Many times carpenters are compelled to wait a week or more after securing a job before they are permitted to "start in"; then the job may last a week, a month, or six months, as the case may be. Any new job just starting will find many men waiting all day long for an opportunity to "ask the boss" for a job. Many times the men secure but a few hours' or a few days' work and then comes the weary tramp from place to place, seeking another chance. This condition of affairs is truly a pleasant one for a bright, ambitious boy learning a trade to look forward to, is it not? Bear in mind that these men are not receiving five dollars nor five cents per day while going their weary rounds, but their rent goes on just the same and the kiddies' shoes wear out just as fast when dad is not working as when he is. It seems to us that this is a phase of the situation that is studiously avoided by the public press and by those who delight to discourse upon the "menace of organized labor."

Another matter worthy of consideration is the fact that very few carpenters will permit their boys to "learn the trade."

We do not believe in the open shop, because we do not believe there are any good open shops; all are bad and some are worse. The union carpenters, by united effort, established a working-day consistent with our present-day civilization and established a minimum wage; any man not capable of earning that minimum wage in the carpenter trade has missed his calling, and perhaps a good lawyer or a good policeman has been spoiled by having his talents misdirected; he should choose some other walk in life more in keeping with his qualifications.

Any member of the carpenters' union who has demonstrated to his employer that he is worth more than the minimum rate is at liberty to accept remuneration commensurate to the value of his services and no protest will be forthcoming, unless perchance, from a jealous fellow-workman.

The open shop that pays its employees anywhere near the minimum established by the union does so because it knows that its employees can join the union and secure employment

in union shops or jobs. This condition is taken advantage of by the employees, and they secure the approximate equivalent of the union rate without being obliged to contribute dues or assessments to a trade-union that through its efforts has benefited the non-union man as well as members of the organization. This is what we might term keen business acumen, but questionable principle.

This kind of an open shop gives encouragement to the proprietors of others not so well situated, and the union man finds himself confronted with open-shop products manufactured by women and girls who work ten hours per day and receive from eight to ten cents per hour, as is the case at the present time. Naturally the members of the carpenters' union are fighting desperately to prevent the one hundred and eighty mills and factories in and around New York which employ union men from becoming storage warehouses for wood-trim and doors manufactured under non-union conditions, and at an average wage oftentimes less than one-half the minimum established by the unions and for a week of sixty hours or more.

The alleged unlawful acts of the carpenter, consisting of striking, are committed for the purpose of keeping a roof over their heads and keeping their children in school. Most of us are men of common education, and the law as expounded in the legal verbiage of to-day is Greek to most of us, but we believe we know right from wrong, and we are fighting our battles through the courts along clean and conservative lines. We have had many bitter struggles, many within our own ranks that the public knows nothing of, but right has prevailed in the end.

An employer will not deal with the representative of a union, he will not deal with a committee of his employees, he will deal only with the individual, because he believes in the sacredness of individual contract. Here is a case: "John, you have been with us a long time now and are getting along in years; hereafter we will pay you twelve dollars per week. You can take it, or pack up your tools and get out of the shop." This man, with the aid of a boy, had made much more than this on piece-work, but, having made nothing but ice-boxes all his life and knowing how impossible it was to earn his living in any other way, was obliged to accept the terms offered or starve.

Another illustration of the beauties of individual contract

and "the sacred right to work for whom you please and for what you please" is set forth on page 94 of Jacob A. Riis's *The Making of an American:*

"In a planing-mill in which I had found employment I contracted with the boss to plane doors, sandpaper them, and plug knot-holes at fifteen cents a door. It was his own offer, and I did the work well, better than it had been done before, so he said himself. But when he found at the end of the week that I had made fifteen dollars where my slow-coach predecessor had made only ten, he cut the price down to twelve cents. I objected, but in the end swallowed my anger, and by putting on extra steam and working overtime made sixteen dollars the next week. The boss examined the work very carefully, said it was good, paid my wages, and cut down the price to ten cents. He did not want his men to make over ten dollars a week, he said; it was not good for them."

This is an ideal illustration of open-shop methods and the sacredness of individual contract. The above is the rule and not the exception in open-shop methods.

Is it any wonder that a feeling of bitterness is engendered in the hearts of union men when an association with unlimited financial backing is seeking to re-establish conditions as cited above? Is it any wonder that 6,000 voters of Greater New York changed their political faith at the last election? Is it any wonder that the Brotherhood of Carpenters are spending thousands of their hard-earned dollars in combat with this gigantic lumber trust and their union-hating representatives who masquerade behind such patriotic phrases as "the inalienable right of every American citizen to work for whom he pleases and for what he pleases"? Not one word of the sacred right of the girls and women employed in the western wood-working factories.

We are restrained by the courts from telling our fellow-trade-unionists that certain wood-trim and doors are made by women and girls or under conditions that will eliminate every clean-living, right-living machine-hand or wood-worker from factories doing this class of work.

We claim the right to strike. The law gives us that right, for cause or no cause we can cease working, and when we find that we are erecting wood material in buildings—material manufactured under conditions such as to make it impossible for us to live as civilized human beings should live, were we compelled to accept them—that would reduce four thousand rent-payers in Greater New York to abject poverty, we ask if that is not sufficient cause to strike?

We are restrained by the courts from telling our fellow-

workmen, verbally or in writing, that they, by erecting this material, are giving valuable assistance to wage-reducing, labor-crushing machinery of the lumber trust; but they are not restrained as yet from thinking and voting.

It is said that the unions are able to enforce their wicked policies because they are affiliated with the American Federation of Labor, composed of nearly two millions of members, who are enjoined by their officers to refuse to deal with those who do not employ union men. This idea is worked up with all the skill which a strong but unreliable imagination can give it, so that one can picture the whole body of organized labor in the country, with long-distance telephones, telegraphs, agents, etc., as quick and ready means, enabling them to swoop down on some one to compel him to do something which he cannot lawfully be compelled to do. This is ridiculous in the extreme. But they do take place, it is asserted, and they are unlawful; they are boycotts. The courts enjoin boycotts, and the friends and advocates of the open shop are strong for the injunction. In this land there is an organization known as the Consumers' League, which is composed of thoughtful women who refuse to purchase the wares of employers who do not provide suitable conditions and living wages to their employees. Are we soon to see the injunction used against them to compel them to buy from such employers and not to discriminate against them? Recently, when the high cost of meats was attracting universal attention, it will be recalled that hundreds of thousands of people in Cleveland and other large cities refused to purchase the products of the members of the supposed combine which was fixing the exorbitant prices. Should not the injunction have been used against them to compel them not to discriminate against these persons? If not, then these masses of people thus discriminating, like the unions, are taking the law into their own hands; of what avail against the hard facts of life are arguments based upon the narrow, mean principles of technical legal rules and decisions handed down by the courts, who ignore the realities of existence going on before their very eyes for the musty precedents of centuries gone by. There is no permanent strength in misrepresentation. Truth alone is eternal.

The principle of the closed shop is railed against by misrepresentation, not struck at by facts. Trade-unions fight for the closed shop to unite all men of the different crafts

in efforts to better their condition. The individual member of the union, when he loses his employment in a strike, does not do so because he alone benefits thereby. On the contrary, he makes a sacrifice; he is heroic because he is acting in behalf of his fellows to benefit them as a whole. Yet it is said that he does it to prevent a non-union man from getting employment.

Then, too, the employer, so anxious, forsooth, for the welfare of the non-union man, points to the horrible fate of the man who cannot get into the union or who, having been in, has been expelled. He must starve, they cry with terror. They speak only of what may be. They refer to no facts. Many have been sacrificed in all wars for their principles; doubtless cruel suffering may sometimes be inflicted upon a man who has been expelled from a union because he cannot get employment. Until mankind becomes ideal in conduct, we may look for such things to happen to some unfortunate and isolated victim as we may look to see other unjust suffering.

"The right to strike!" The word "strike" is obnoxious to every business agent and every officer of the Brotherhood of Carpenters in Greater New York. It is their business to keep the members employed, keep them employed under living conditions. When a business agent finds a boss "scamping" his job, he is reasonably certain that wages are being "scamped" also, and if the men employed are true union men they give the facts, and if a talk—and sometimes a little bluster—does not put the employer in a humor to pay the prevailing rate of wages, a strike follows and the job is at a standstill, unless the employer can secure a few advocates of "the right of every American citizen to work for whom he pleases and for what he pleases" to man his job.

Organized labor, and the Brotherhood of Carpenters in particular, advocate the elimination of the open shop. They say so frankly, as years of experience have shown every thinking man or woman that the open shop stands for low wages, non-progressive methods, entire disregard for the safety of the employees, entire disregard for proper sanitation. Human life is the cheapest thing in an open shop. The establishment of the closed shop compelled the elimination of child labor in eastern factories, compelled the safeguarding of human life, reduced accidents to a minimum, refused

to tolerate criminal carelessness upon the part of manager and owner, and from actual shame the owners of open shops have in some instances fallen in line and are at least making some pretense of caring for the interests of their employees.

Therefore, the writer contends that the closed shop is a boon to civilization, it is a factor in bringing about humane conditions, it is a factor in eliminating cut-throat competition, placing employers upon an equal commercial basis, eliminating entirely the brutal methods as cited by Mr. Riis in his book.

We sit in silence while the public press vilifies and vents its spleen upon us. We read its inspired editorials and we know from what source they come. We read the venomous attacks upon us, and, knowing we are right, we wonder if our detractors know that they are sowing the seed of discontent, of unrest, of resentment, of bitterness in the hearts of working-men. Organized labor stands for clean living, right thinking, conservative action, and conservatism within the ranks of organized labor will prevail—if our detractors will permit it.

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